

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

KIM GRAY,
AIS #203553,

Plaintiff,

v.

PAUL WHALEY,

Defendant.

Civil Action No.
2:06-CV-107-MEF

SUPPLEMENTAL SPECIAL REPORT

Comes now the Defendant Paul Whaley, by and through the undersigned counsel in the above-styled action, and files this Supplemental Special Report, pursuant to this Court's Order, as follows:

PLAINTIFF'S AMENDED ALLEGATIONS

The Plaintiff's complaint alleges that he is being classified as a sex offender by ADOC.

STATEMENT OF FACTS

Inmate Gray filed this complaint against Paul Whaley, who is the Director of Classification for the Alabama department of Corrections. In a state court proceeding wherein the Plaintiff was seeking the same relief as he is seeking here, the state court denied his claims. Paul Whaley's affidavit in the state court case, as it is in this case, was based upon the Pre-sentence Investigation (PSI) supplied to ADOC by the Court

System. As stated in this Supplemental Special Report, Inmate Gray is not being classified as a sex offender by ADOC.

As there are no issues of material fact and for the reasons as stated herein and in the original special report, the Defendant pursuant to F.R.C.P. 56(b), requests that a motion for summary judgment be granted.

Respectfully submitted,

Kim T. Thomas
General Counsel
Assistant Attorney General

/s/Albert S. Butler
Albert S. Butler
Assistant General Counsel
Assistant Attorney General

ADDRESS OF COUNSEL:

Alabama Department of Corrections
Legal Division
301 South Ripley Street
Post Office Box 301501
Montgomery, Alabama 36130-1501
334-353-3885

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing documents upon:

Kim Gray, AIS #203553
Bibb Correctional Facility
565 Bibb Lane
Brent, Alabama 35034

by placing a copy of same in the U.S. Mail, properly addressed and postage paid, on this the 14th day of June, 2006.

/s/Albert S. Butler
Albert S. Butler
Assistant General Counsel
Assistant Attorney General

STATE OF ALABAMA:
MONTGOMERY COUNTY:

CIVIL ACTION NO. 2:06-CV-107-MEF
GRAY, KYM #203553R

SUPPLEMENTAL AFFIDAVIT

My name is Paul Whaley II and I am presently employed as the Director of Classification, Alabama Dept. of Corrections, P O Box 301501, Montgomery, Alabama 36130. I am over the age of twenty-one years. I have 27 years' experience with the Alabama Dept. of Corrections, all in the area of inmate classification. I worked at Kilby as the institutional classification specialist for five years managing a caseload as well as performing intake and reclassification duties. Following that, I served 9 ½ years as a member of the Central Review Board where the vast majority of classification determinations statewide relative to placements, programs, custodies, institutional assignments and security levels were made. I have served as the Director of Classification for 13 years. I have attended specialized training with the National Institute of Corrections. I hold Masters' degrees in both Criminal Justice and Counseling. I hold a specialized instructor's certificate (#647) issued by the Peace Officers' Standards and Training Commission. I have given presentations around this state to Circuit Judges, District Attorneys, and attorneys for CLE credit. I am qualified to testify to the following with respect to the issues raised in this pleading.

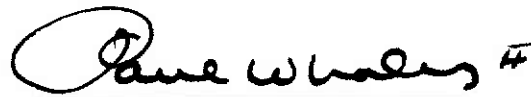
Pursuant to the instructions of the Court, the following supplemental affidavit is submitted with regard to the status and classification of inmate Kym Gray.

The last sentence of the second paragraph of page two of my original affidavit in this case dated 8 May 2006 reads as follows, " Omit the allegation of the sexual act and still the fact the victim was taken against her will to be murdered is sufficient to restrict him (Gray) from any less restrictive placement". The issue of a sex crime was and remains an allegation. Omit the allegation entirely and the restriction would remain due to the details of the murder.

Any information relative to a sexual act was furnished by the courts to the ADOC. For the record, however, this criminal is not considered a sex offender. His classification is not based upon any sex act whether alleged or committed. He is a convicted murderer

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and it is the brutality and details therein related to that murder without considering any sex act alleged or otherwise upon which his classification is now and shall be predicated. I know no way to make this any clearer.



Paul Whaley II

STATE OF ALABAMA:

COUNTY OF MONTGOMERY:

SWORN TO AND SUBSCRIBED before me this the 13th day of June 2006.



Notary Public

